



Washington State Department of
Early Learning

Semi-Annual Rule-making Agenda under RCW 34.05.314
January 1, 2012 through June 30, 2012
(as filed January 4, 2012, filing number WSR 12-03-003)

The Department of Early Learning (DEL) prepares a semi-annual rule-making agenda in January and July each year to let the public know about DEL rule changes that are underway or planned. The current agenda also: (1) Reports rulemaking suspended, eliminated or proceeding under the Governor's [Executive Order \(EO\) 10-06](#) suspending non-critical rule-making;* and (2) Updates the 2007 Child Care Provider Rule Review Plan prepared under RCW 43.215.502. DEL rules are part of the Washington Administrative Code (WAC), and permanent DEL rules can be found online at [title 170 WAC](#). Find current information about department rule-making activity online at [DEL Rules Under Development](#). See additional notes following the table.

Subject Matter and Authority	WAC Chapter or Sections	Description DEL Rules Under Development on the DEL website has current information on these rules.	Emergency Rules (CR-103E)	Pre-Proposal Notice (CR-101)	Proposed Rule (CR-102) and Public Hearings or Expedited Rule (CR-105)	Permanent Rule (CR-103P)
Common Terms, Definitions and Standards RCW 43.215.060; 43.215.070; and chapter 43.215	New WAC chapter, and possible revisions of other DEL rules in title 170 WAC	Adopting a new DEL WAC chapter of title 170 to include terms, definitions or standards that apply to more than one DEL WAC chapter or program. Other DEL WAC chapters may be revised to eliminate duplication. EO 10-06 impact: Rule development suspended.	None	Filed 12/24/08 as WSR 09-01-185 .	Suspended	Suspended
Public Records, DEL Organization RCW 42.56.070; and 42.56.100	New Chapter 170-01	Adopting a new DEL WAC chapter on public records, and adopting DEL organization and index rules required by law. EO 10-06 impact: Rules are required by state law. DEL plans to proceed with rule development.	None	Filed 8/27/09 as WSR 09-18-055	Filed 1/4/12 As WSR 12-02-081 Public hearings 2/7/12 and 2/11/12	Permanent rule adoption anticipated this period
DEL Hearing Rules RCW 34.05.220, 43.215.070; and Chapter 43.215 RCW	Chapter 170-03	Adopting technical changes needed to make the rules consistent with other DEL WAC chapters and to revise hearing procedures. EO 10-06 impact: Rule development suspended this period, but DEL may review rules for potential budget-related revisions.	None	Suspended	Suspended	Suspended

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DEL Background Checks Rules C 295, L 2011; RCW 43.215.060, 43.215.070; 43.215.200; 43.215.205; 43.215.215; 43.43.832(6); and chapter 43.215	Chapter 170-06 and related sections of 170-151, 170-295, 170-296A	<ul style="list-style-type: none"> Implementing 2011 House Bill 1903 creating an individual based/portable background check registry and new background check requirements; Updating the list of crimes or negative actions that may disqualify a person from obtaining a DEL clearance; and Revising rules on disqualification, reconsideration and due process, and to be consistent with current law. <p>EO 10-06 impact: Rules are necessary to implement new state law and to protect public health, safety and welfare. Rule development to proceed in 2012.</p>	Filed 11/17/11 as WSR 11-23-085 See also WSR 11-15-090	Filed 5/31/11 as WSR 11-12-076 See also WSR 09-01-184 filed 12/24/08	Proposed rules anticipated this period	Permanent rule adoption anticipated this period
Syrup of Ipecac Use in DEL-Licensed Child Care Facilities RCW 43.215.060; 43.215.070; 43.215.200; and Chapter 43.215	Chapters 170-151, 170-295	Revising requirements on keeping syrup of Ipecac available in a licensed child care facility for emergency treatment of children suspected of swallowing a poison. Changes will be based on current research and advice from health professionals and Washington Poison Center. EO 10-06 impact: Rules are beneficial to and likely supported by regulated entities. Rule development may continue in 2012.	None	To be determined	To be determined	To be determined.
School-Age Child Care Center Programs C 359, L 2011; RCW 43.215.060,	Chapter 170-151	<ul style="list-style-type: none"> Implementing House Bill 1776 related to licensed child care centers located in public or private school buildings; General chapter review. School-age program rules have not been updated since 1997 and are not consistent with 	None	Filed 4/23/09 as WSR 09-10-009	To be determined	To be determined.

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43.215.070; 43.43.832(6); and Chapter 43.215		current law or practice. School's Out Washington (SOWA), a non-profit group, has gathered stakeholder input and recommended comprehensive WAC changes. EO 10-06 impact: Rules are needed to implement new state law and to protect public health, safety and welfare, and are requested by regulated entities. Rule development to continue in 2012.				
Working Connections Child Care (WCCC) and Seasonal Child Care (SCC) Subsidy Programs C 42, L 2011, 1 st Spec. Sess; C 265, L 2006, sec. 501 (uncodified); RCW 43.215.060; 43.215.070;	Chapter 170-290 and related sections in 170-151, 170-295, and 170-296A	<ul style="list-style-type: none"> Implementing certain recommendations in state and federal audits to increase accountability for federal funds and reduce potential fraud and abuse; Implementing applicable provisions of Senate Bill 5921. EO 10-06 impact: Rules are required by new state law and to maintain federally delegated or authorized programs. Rule development to continue in 2012.	Filed 10/06/11 as WSR 11-21-005 See also WSR 11-14-066	Filed 5/31/11 as WSR 11-12-076	Filed 1/4/12 As WSR 12-02-077 Public hearings 2/7/12 and 2/11/12	Permanent rule adoption anticipated this period
Annual License Fees for DEL-Licensed Child Care Centers and Family Homes C 50, L 2011, 1 st	Chapters 170-151 170-295, 170-296, and 170-296A	Implementing section 617(2) of House Bill 1087 authorizing an increase in the annual license fee for DEL-licensed child care centers and family home child cares to support expenditures authorized in the 2011-2013 state operating budget act.	Filed 10/11/11 as WSR 11-21-021 See also WSR 11-13-077	Filed 5/31/11 as WSR 11-12-076	Filed 1/4/12 As WSR 12-02-079 Public hearings 2/7/12 and 2/11/12	Permanent rule adoption for child care centers, school age anticipated this period

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Spec. Sess. RCW 43.215.070, 43.215.255		EO 10-06 impact: Rules are required by new state law and to manage budget shortfalls maintain fund solvency or for revenue generating activities. Rule-making to proceed in 2012.				Fee increase for family home child care adopted in new chapter 170-296A, WSR 11-23-068
Nonexpiring Child Care Licenses C 297, L 2011; RCW 43.215.060, 43.15.070; and Chapter 43.215 RCW	Chapters 170-151, 170-295, 170-296, and 170-296A	Implementing applicable provisions of Senate Bill 5625 creating a nonexpiring license and annual requirements for child care centers and family home child cares to continue a nonexpiring license. EO 10-06 Impact: Rules are required to implement new state law, and to protect public health, safety and welfare. Rule-making to proceed in 2012.	Filed 9/15/11 as WSR 11-19-066 See also WSR 11-15-091	Filed 5/31/11 as WSR 11-12-076	Filed 1/4/12 As WSR 12-02-078 Public hearings 2/7/12 and 2/11/12	Permanent rule adoption for child care centers, school age programs anticipated this period Rules implementing SB 5625 for family home child care adopted in new WAC 170-296A, WSR 11-23-068
Civil Fines; Providing Child Care Without a License C 296, L 2011; RCW 43.215.060, 43.215.070; Chapter 43.215 RCW	Chapters 170-151, 170-295, 170-296, and 170-296A	Implementing provisions of Senate Bill 5504 revising civil fine amounts and notice requirements regarding individuals suspected of providing child care without a license, and civil fines for violating chapter 43.215 RCW or rules adopted pursuant to this statute. EO 10-06 impact: Rules are required to implement new state law, and to protect public health, safety and welfare. Rule-making to proceed in 2012.	Filed 12/1/11 as WSR 11-24-025 See also WSR 11-15-089	Filed 5/31/11 as WSR 11-12-076	Filed 1/4/12 As WSR 12-02-080 Public hearings 2/7/12 and 2/11/12	Permanent rule adoption for child care centers, school age programs anticipated this period Civil fine and unlicensed care rules for family home child care

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						adopted in new chapter 170-296A, WSR 11-23-068
Minimum Licensing Requirements for Child Care Centers RCW 43.215.060; 43.215.070; Chapter 43.215 RCW	Chapter 170-295	Review and update of rules for DEL-licensed child care centers. Rules have not been comprehensively updated since 2003 and do not reflect current law. Rules need to be updated for current child care health, safety and development research and practice. EO 10-06 impact: Rules are necessary to protect public health, safety and welfare. Rule review planned to be initiated in 2012.	None	Filed 8/18/10 As WSR 10-18-006 1 st Informal input period Dec. 2011 through 3/31/12	To be determined	To be determined
Child Care Centers, Family Home Child Care RCW 43.215.070; and chapter 43.215 RCW	Chapters 170-295, 170-296A	Revising DEL rules on infant and toddler cribs and other sleeping equipment, consistent with new rules of the U.S. Consumer Product Safety Commission. By December 28, 2012, all cribs used in child care facilities must meet new national safety standards. EO 10-06 impact: Rules are necessary to protect public health safety and welfare. Rule development to proceed in 2012.	None	Anticipated filing in this period	To be determined	To be determined for chapter 170-295 Crib rules for family child care homes adopted in new chapter 170-296A, WSR 11-23-068
Exclusion of Ill Children or Staff in Child Care Centers RCW 43.215.070; Chapter 43.215	WAC 170-295-3030	Possible rule-making due to a public petition, under RCW 34.05.330, to amend WAC 170-295-3030 <i>When is a child or staff member too ill to be at child care.</i> EO 10-06 impact: Rules are necessary to protect public health, safety and welfare. Rule development may proceed in 2012.	None	Filed 8/18/10 As WSR 10-18-006 Informal input period Dec. 2011 through 1/31/12	To be determined	To be determined

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Licensed Family Home Child Care Standards RCW 43.215.060; 43.215.071; 43.215.350; and Chapter 43.215 C 295, L 2011; C 296, L 2011; C 297, L 2011; and C 50, L 2011, 1 st Spec. Sess.	Chapter 170-296 (repeal); New Chapter 170-296A	Revising the family home child care chapter using a negotiated rule-making process consisting of licensed child care providers, the Service Employees International Union, parent and licensee advocates, Child Care Resource and Referral network and DEL staff. Adopting a new WAC chapter 170-296A and repealing all sections of chapter 170-296 WAC. Permanent rules adopted on 11/14/11 and effective 3/31/12. Rules also implement applicable provisions of 2011 Senate Bill 5625, Senate Bill 5504, House Bill 1903 and House Bill 1087. EO 10-06 impact: Rules may proceed if developed using negotiated rule-making, pilot rule-making or a similar inclusive process.	None	Filed 12/01/06 As WSR 06-24-051 .	Filed 4/20/11 as WSR 11-09-081 Eight public hearings held in June/July 2011	Filed 11/14/11 as WSR 11-23-068 Permanent Rules Effective 3/31/12
Department of Early Learning Rules RCW 43.215.060; 43.215.070	All chapters of Title 170	DEL may revise its rules to update, names, cross references or other information to keep DEL rules current. EO 10-06 impact: Rules suspended unless specific rules are deemed necessary to protect the public health, safety and welfare.	N/A	Suspended	Suspended	Suspended

Permanent rules adopted in the twelve months prior to this report:

- WSR [11-12-078](#). WCCC and SCC subsidy program rules. Permanent rules filed May 31, 2011 and effective July 1, 2011. Revising Seasonal Child Care subsidy rules to reflect joint implementation by DEL and the Department of Social and Health Services (DSHS).

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- WSR [11-18-001](#). WCCC and SCC subsidy program rules. Permanent rules filed August 24, 2011 and effective September 24, 2011. Amending rules regarding consumer income eligibility, program caps and waiting list, copayments, reapplication, allowable fees, and partial implementation of 2011 Senate Bill 5921 and recommendations from state and federal audits.
- WSR [11-23-068](#). Adopting new Chapter 170-296A Licensed family home child care standards, and repealing all sections of chapter 170-296 WAC. Permanent rules filed November 14, 2011 and effective March 31, 2011. Revising family home child care licensing rules using negotiated rule-making as provided by RCW 43.215.350 and 34.05.310, and a process inclusive of licensees, the Services Employees International Union Local 925, parent and licensee advocates, the statewide Child Care Resource and Referral network and DEL staff.

*** Governor's Executive Order 10-06 Suspending Non-Critical Rule Development and Adoption**

[EO 10-06](#), signed November 17, 2010, directs state executive agencies to suspend or eliminate "non-critical" rule development and adoption (extended through December 31, 2012 by EO 11-03). Guidance prepared by the state Office of Financial Management on implementing EO 10-06, says in part:

- Rule proceedings are non-critical unless the rule is:
 - a. Required by federal or state law or required to maintain a federally delegated or authorized program
 - b. Required by court order
 - c. Necessary to manage budget shortfalls, maintain fund solvency, or for revenue generating activities
 - d. Necessary to protect health, safety, and welfare or necessary to avoid an immediate threat to the state's natural resources; or
 - e. Beneficial or requested or supported by the regulated entities, local governments, or small businesses that (the rule) affects.
- Agencies may continue to adopt rules that have been the subject of negotiated rule-making or pilot rule-making that involved substantial participation by interested parties before development of the proposed rule. Agencies may also proceed to finalize permanent rule-making that has previously been covered by emergency rules.
- Agencies may continue to adopt expedited rules under RCW 34.05.353 where proposed rules relate only to internal government operations.

Find the complete OFM guidance on implementing EO 10-06 at the Governor's Office of Regulatory Assistance website:

http://www.governor.wa.gov/news/20101116_memo_eo_10-06.pdf

Notes:

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For more information about Department of Early Learning rule-making, or to join a mailing list to receive DEL rule notices and draft materials, please email Rules@del.wa.gov, or write to the: DEL Rules Coordinator, PO Box 40970, Olympia, WA 98504-0970.

CR means “*Code Reviser*.” The Legislature’s Office of the Code Reviser creates the rule-making notice forms used and filed by all state agencies.

CR-101 is a *Pre-proposal Statement of Inquiry* notice filed under RCW 34.05.310.

CR-102 may be a *Proposed Rule-making* notice filed under RCW 34.05.320; a continuance notice under RCW 34.05.325, or a supplemental Proposed Rule-making notice under RCW 34.05.340.

CR-103E is an emergency *Rule-Making Order* filed under RCW 34.05.350.

CR-103P is a permanent *Rule-making Order* filed under RCW 34.05.360.

CR-105 is an *Expedited Rule-making* notice filed under RCW 34.05.353.

WSR means “*Washington State Register*.” The *WSR numbers* noted throughout this rules agenda are the official filing numbers assigned by the Office of the Code Reviser and entered on materials filed for legal publication in the State Register.